

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

MARCOS EDUARDO MENDIOLA,

Plaintiff,

vs.

JEANNE WOODFORD, Director of  
Corrections, et al.,

Defendant.

CASE NO. 09cv1442-MMA(AJB)

**ORDER DENYING PETITIONER'S  
APPLICATION FOR CERTIFICATE  
OF APPEALABILITY**

[Doc. No. 34]


Petitioner Marcos Eduardo Mendiola, a state prisoner proceeding *pro se*, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 [Doc. No. 1] challenging his state court convictions for first-degree murder with special circumstances and carjacking. Respondent filed an answer to the first amended petition [Doc. No. 12], and Petitioner filed a traverse [Doc. No. 18]. Subsequent to transfer from the Central District of California, the matter was referred to United States Magistrate Anthony J. Battaglia for preparation of a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and Civil Local Rule 72.3. On March 29, 2010, the undersigned adopted the Report and Recommendation, denied the petition, and determined that a certificate of appealability should not issue in this case. The Court concluded that Petitioner did not make a substantial showing of a the denial of a constitutional right and that reasonable jurists would not disagree. 28 U.S.C. § 2253; Fed. R. App. P. 22(b).

Currently before the Court is Petitioner's application for a Certificate of Appealability,

1 received and filed subsequent to the Court's March 29, 2010 order declining to issue a certificate.  
2 Upon due consideration of Petitioner's present application, the Court finds no reason to amend its  
3 prior order. Therefore, for the reasons set forth in the Report and Recommendation and the Court's  
4 March 29, 2010 order, Petitioner has not made a substantial showing of the denial of a constitutional  
5 right. Accordingly, a certificate of appealability should not issue in this action and Petitioner's  
6 application is **DENIED**.

7 **IT IS SO ORDERED.**

8 DATED: May 11, 2010



Hon. Michael M. Anello  
United States District Judge